IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 36601 of 2007(G)

PETITIONER:

V.P. GOPALAKRISHNAN NAIR,
JAYA BHAVAN, CONVENT ROAD, THOTTAKATTUKARA,
ALUVA-683 108.

BY ADV. SRI.V.P.SUKUMAR

RESPONDENTS:

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1. THE KERALA STATE INDUSTRIAL DEVELOPMENT CORPORATION, KAWDIAR P.O., THIRUVANANTHAPURAM, REPRESENTED BY ITS MANAGING DIRECTOR.

2. THE DISTRICT COLLECTOR, ERNAKULAM.

3. THE DEPUTY TAHSILDAR (R.R),
TALUK OFFICE, ALUVA.

BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKAL
R1 BY SC SRI. SAJI VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 36601 of 2007

Dated this the 11th December, 2007

J U D G M E N T

The petitioner challenges Exhibit-P4 notice of show cause issued by the District Collector under Section 65 of the Revenue Recovery Act, requiring the petitioner to appear in person before the District Collector and to show cause why he should not be committed to the civil prison. The principle ground of challenge against Exhibit-P4, is one nested on under Section 67 of the Revenue Recovery Act, which reads as follows:

> "Mode of enforcing payment by sureties:- All the remedies prescribed by this Act in respect of defaulters of public revenue due on land except the power of arrest and detention in prison may be employed against their sureties, and the Collector or the authorised officer may enforce the same simultaneously with, or either previously or subsequently to, their enforcement against the principal, so nevertheless that not more than the total sum in arrears and interest and cost of process shall be realised from both.

2. According to the petitioner since he was only a surety for the loan availed by M/s. Trend Instyle (India) Ltd, he cannot be proceeded against under Section 67 of the Revenue Recovery Act.

3. I heard the learned counsel for the petitioner, the learned Government Pleader and the learned standing counsel for the 1st respondent also. I am not inclined to consider the contentions of the petitioner at the stage of a notice of show cause. Obviously, the petitioner is entitled to appear before the District Collector and take up all objections that are available in law, including the one under Section 67 of the Revenue Recovery Act. Petitioner is at liberty to do so.

In the facts and circumstances of the case, the petitioner shall appear before the District Collector pursuant to Exhibit-P4 and file his objections to the same. The 2nd respondent shall thereafter, hear the petitioner or his representative and take a decision with specific reference to the objections raised by the petitioner, especially the one under Section 67 of the Revenue Recovery Act. If nevertheless, the 1st respondent proceeds to

pass an order proposing arrest and detention of the petitioner under Section 65 of the Revenue Recovery Act, he shall intimate the order to the petitioner and enforcement of the same shall be deferred for a period of two weeks from the date of service of the same on the petitioner. Subject to these observations, the writ petition is disposed of.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007